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SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO
CENTRAL DIVISION

JOAN BYRD and SUSAN JUVET,

Plaintiffs,

v.

COUNTY OF FRESNO and CITY OF
FRESNO

Defendants,

) Case No. 14 CECG 01502
) Department 404

) ORDER DENYING EX PARTE
) APPLICATION FOR ALTERNATIVE
) WRIT OF MANDATE AND ORDER TO
) SHOW CAUSE WHY PEREMPTORY
) WRIT SHOULD NOT ISSUE

After considering the papers submitted in support of the Ex Parte Application for Alternative Writ of Mandate and Order to Show Cause Why Peremptory Writ Should Not Issue of plaintiffs Joan Byrd and Susan Juvet, the court rules as follows:

“The court may deny the application for an alternative writ and dismiss the petition if the petition fails to allege a prima facie case for relief or is procedurally defective.” (*Gomez v. Superior Court* (2012) 54 Cal.4th 293, 301.) Generally, a writ will lie when there is no plain, speedy, and adequate alternative remedy; the respondent has a duty to perform; and the petitioner has a clear and beneficial right to performance. (Code Civ. Proc., §§ 1085, 1086; *Payne v. Superior Court* (1976) 17 Cal.3d 908, 925.)

Here, the Verified First Amended Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief fails to allege any facts demonstrating that plaintiffs lack a plain, speedy, and adequate legal remedy. Instead, the existence of causes of action for declaratory relief and injunctive relief demonstrate that writ relief is neither necessary nor proper in this instance.

Therefore plaintiffs’ Ex Parte Application for Alternative Writ of Mandate is hereby denied and the Petition for Writ of Mandate is hereby dismissed. This order shall not

1 effect the validity of the Verified First Amended Complaint for Declaratory and Injunctive
2 Relief.

3 It is so ordered.

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5 Dated this 29 day of September, 2014

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8 CARLOS A. CABRERA
9 Carlos A. Cabrera
10 Judge of the Superior Court
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